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DOUGLAS T. JOHNSON
MILLER & MARTIN
1000 VOLUNTEER BUILDING
832 GEORGIA AVENUE
CHATTANOOGA TN 37402-2289

COPY MAILED

OCT 18 2004

OFFICE OF PETITIONS

In re Application of :
Bowling and Adams :
Application No. 10/630,290 : DECISION REFUSING STATUS
Filed: 30 July, 2003 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 10326-0001 :
33,212 :
:

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 13 September, 2004.

The petition is again **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor.

FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.

Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 30 July, 2003, with a declaration naming Michael Bowling and Phil Adams as joint inventors and signed by joint inventor Bowling and by petitioner's counsel on behalf of joint inventor Adams. The petition filed on 30 July, 2003, was dismissed on 20 August, 2004.

Petitioners' counsel again asserts that a copy of the application was sent to the non-signing inventor, but that the inventor returned the application papers along a statement stating that the non-signing inventor was refusing to sign the declaration.

A copy of the statement by which the non-signing inventor has refused to sign the declaration has now been provided, along with a declaration naming Michael Bowling as the sole inventor.

A grantable petition under 37 CFR 1.47(a) requires:

- (1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee;
- (4) a surcharge of \$130 or \$65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
- (5) a statement of the last known address of the non-signing inventor.

The petition lacks item (2).

With regards to item (2), the declaration submitted with the present renewed petition is defective in that only one inventor is named. The declaration submitted under 37 CFR 1.63 and 1.67 must contain the name, citizenship, residence, and mailing address for each inventor. Under 37 CFR 1.47(a) the Declaration is acceptable if all the signing inventors signed in their respective signature blocks and the signature block of the non-signing inventor is left blank or all the signing inventors sign a statement saying that they are signing on behalf of the non-signing inventor.

Petitioners should provide a declaration containing the name, citizenship, residence, and mailing address for all the inventors. The signature block for the signing inventor should be signed by that inventor, while the signature block for the non-signing inventor should be left unsigned. All of the other relevant information (e.g. name, citizenship, residence, and mailing address) for the non-signing inventor must be included on the declaration.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
220 20th Street S.
Customer Window, Mail Stop Petitions
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Arlington, VA 22202

Telephone inquiries related to this decision should be directed
to the undersigned at 571-272-3231.


Douglas I. Wood
Senior Petitions Attorney
Office of Petitions